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No. 30

# In the Supreme Court of the United States

OCTOBER TERM, 1928

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, APPELLANTS

*v.*

ERIE RAILROAD COMPANY AND HOBOKEN MANUFACTURERS' RAILROAD COMPANY

*APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY*

## STATEMENT ON JURISDICTION

U.S. GOVERNMENT PRINTING OFFICE : 1929

# In the Supreme Court of the United States

OCTOBER TERM, 1928

No. 663

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, appellants

*v.*

ERIE RAILROAD COMPANY AND HOBOKEN MANUFACTURERS' RAILROAD COMPANY

*APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY*

## STATEMENT ON JURISDICTION

### A. STATUTES

Section 238 of the Judicial Code as amended by Act of February 13, 1925 (c. 229, 43 Stat. 936, 938), paragraph (4) (U. S. C. Title 28, Sec. 345).

Urgent Deficiencies Act of October 22, 1913 (c. 32, 38 Stat. 208, 219, 220; U. S. C. Title 28, Sec. 47).

### B. DECREE

The final decree was entered December 26, 1928. (R. 54.)[1]

[1]All references to the record are to the pages of the certified unprinted record prepared by the Clerk of the District Court and on file with the Clerk of this Court. The record has not yet been printed.

The application for appeal was filed and the order allowing the appeal was entered January 21, 1929. (R. 56–58.) Notices of appeal with service acknowledged were also filed January 21, 1929. (R. 59–60.) The case was docketed in this Court on January 29, 1929.

### C. RULINGS

The suit (R. 4–13) was brought to enjoin the enforcement of the order of the Commission (R. 14–22) entered November 2, 1928, in the proceedings entitled "*Hamersley Manufacturing Company* v. *Erie Railroad Company et al.,*" Docket 16531, 148 I. C. C. 47. The order directed respondent carriers to establish, maintain, and apply on or before January 10, 1929, in the manner indicated in the report, to the transportation of imported wood pulp, in carloads, from Hoboken, N. J., to Garfield, N. J., a rate which shall not exceed 10 cents per 100 pounds.

The specially-constituted District Court wrote an opinion (R. 48–53) holding and adjudging that the order was beyond the power of the Commission and void, on the ground that the transportation by railroad was intrastate commerce. The final decree (R. 54–55) permanently enjoins enforcement of the order.

### D. CASES

*Baltimore & Ohio Railroad Company* v. *United States,* 277 U. S. 291.

*Assigned Car Cases*, 274 U. S. 564.

*United States* v. *New York Central Railroad Co.*, 272 U. S. 457.

*Brimstone Railroad Company* v. *United States*, 276 U. S. 104.

*Western Paper Makers' Chemical Company* v. *United States*, 271 U. S. 268.

WILLIAM D. MITCHELL,
*Solicitor General.*

EDWARD M. REIDY,
*Solicitor for Interstate Commerce Commission.*

FEBRUARY, 1929.

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